EX PARTE OR LATE FILED Original

DOCKET FILE COPY ORIGINAL

Before the FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C. 20554

In the Matter of)	RECEIVED
	Ś	PP Docket No. 93-253 JUN 2 2 1994
Implementation of Section 309(j))	PP Docket No. 93-253
of the Communications Act)	
Competitive Bidding Treatment of)	FEBRUAL COMMISSION COMMISSION OFFICE OF SECRETARY
Designated Entities)	

To: The Secretary

EX PARTE PRESENTATION

MasTec, Inc. submits an original plus one copy of this memo and attached letter (hand-delivered ex-parte to Robert M. Pepper for inclusion in the record of the above-referenced rule making proceeding.

Respectfully submitted,

Matthew L. Leibowitz Counsel for MasTec, Inc.

June 22, 199#

Leibowitz and Associates One S.E. Third Avenue Suite 1450 Miami, FL 33131 (305) 530-1322

No. of Copies rec'd

MATTHEW L. LEIBOWITZ JOSEPH A. BELIBLE ILA L. FELD KARSTEN AMLIE

of Coursel Aaron P. Shainis Lee Beltzman Sanforo L. Bohrer

NOT ADMITTED TO FLORIBA BAR SUITE 1450

SUNBANK INTERNATIONAL CENTER ONE SOUTHEAST THIRD AVENUE

MIAMI, FLORIDA 33ISI-1715

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June 22, 1994

Mr. Robert M. Pepper Chief, Office of Plans & Policy Federal Communications Commission 1919 M. Street, NW Room 822 Washington, DC 20554

Dear Bob:

Enclosed please find copies of recent correspondence from our office to the various Commissioners with regard to Personal Communications Services.

Sincerely yours,

Matthew L. Leibowitz

MLL/mdr

MAYTHEW L LEIBÓWITZ JOSEPH A. BELISLE ILA L. FELD KARSTEN AMLIE

of Counsel Aaron P. Smainis " Lee Peltzman" Sanford L. Bohrer

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June 21, 1994

Via Overnight Delivery

The Honorable Reed E. Hundt Chairman Federal Communications Commission 1919 M Street, NW Room 814 Washington, DC 20554

Re:

PP Docket No. 93-253 Gen Docket No. 90-314 RM-7140, RM-7175, RM-7618

Dear Chairman Hundt:

I would like to follow up on our conversations concerning the proposed participation of Designated Entities, including minorities, in PCS.

It is my understanding that the Commission's staff has under consideration the creation of a separate frequency block for new entities with maximum gross revenues of \$100,000,000. As we discussed, I believe that sole reliance on a gross revenue test will improperly exclude otherwise qualified minorities from participating in PCS as mandated by Congress. Specifically, although my client, MasTec, Inc. has annualized revenues of \$178,126,000, it only had a net income of \$525,000 in 1993. I would respectfully suggest that the FCC consider an alternative test to determine eligibility for this frequency block using a net worth test of \$50,000,000. As of March 31, 1994, MasTec's net worth was approximately \$45,460,000.

I would also like to direct your attention to paragraph 120 of the Commission's <u>Opinion and Order</u>, released on June 13, 1994. In this paragraph the Commission, contrary to past precedent, extends the interests of an entity in control of a license to officers and directors of that entity. I am greatly concerned that this new provision will inadvertently injure minorities and women in competing

in PCS. As you are aware, while minorities and women might not hold any significant ownership interests in many telecommunications entities, minorities and women have been appointed as officers and directors of many companies. As a result they have gained significant experience in managing these companies. These people should not be penalized in the upcoming PCS licensing for serving in these capacities. Thus, at least for minorities and women, I would urge the Commission not to extend the attribution rules to officers and directors.

Finally, we have heard rumor that the Commission may retreat from its earlier decision to require Designated Entities to own and control 50.1% of a PCS license. Specifically, some have suggested that Designated Entities need only maintain a 20% economic interest in the licensee. We respectfully urge you to reject this proposal. It is our belief that Designated Entities will have sufficient financing available through joint ventures on a 50.1% - 49.9% basis and that it is contrary to the interests of Designated Entities to reduce this threshold of economic ownership and benefits.

Thank you for your consideration of these issues.

Sincerely yours,

Watthew L. Leckeruitzme
Matthew L. Leibowitz

Counsel for MasTec, Inc.

MLL/mdr

cc: Karen Brinkmann, Special Assistant

Blair Levin, Chief of Staff

Robert M. Pepper, Chief, Office of Plans and Policy

Donald H. Gips, Deputy Chief, Office of Plans and Policy

William E. Kennard, General Counsel

MATTHEW L. LEISOWITZ JOSEPH A. BELISLE ILA L. FELO KARSTEN AMLIE

of Counsel Alagon P. Shaimis * Lee Peltzman * Sanford L. Bohrer

NOT ASMITTED TO

SUITE 1450

RETURNS JANOITANRSTNI XNABNUE BUNBVA DRINT TEARHTUGE BNO BITI-IEIEE ADIROJE, EMAIM

Telephone (305) 530-1328 Telecopier (305) 530-9417 SUITE EGG IZSE ZOM STREET, N.W. WASHINGTON, D.C. 20037

May 27, 1994

Via Facsimile (202) 632-0163

The Honorable James H. Quello Commissioner Federal Communications Commission 1919 M Street, NW Room 802 Washington; DC 20554

Re: Personal Communications Services

Dear Commissioner Quello:

On Tuesday, May 31, 1994, I am meeting with Commissioner Ness and Commissioner Chong to discuss minorities' and women's participation in PCS. In addition, I have a meeting on Wednesday, June 1st, at 8:00 a.m. with Rudy Baca of your Office. If at all possible, I would like to meet with you on Tuesday or early Wednesday morning to express our concerns about recent reports that the FCC may not adopt critical mechanisms which are necessary to implement the statutory requirement of Section 309 (j) (4) (D) of the Communications Act.

We believe PCS will create an historic and unique opportunity to expand the ownership and control of our telecommunications industry to include minorities and women. However, in order for minorities and women to play a meaningful role in PCS, and to raise the requisite capital to compete in the PCS marketplace, the Federal Communications Commission must implement a multi-level flexible approach including a 30 MHz setaside on the MTA basis, installment payments and tax certificates.

I am attaching to this letter a generic financial cost analysis of constructing a PCS for Miami. Please note that this cost analysis does not include the price of the acquisition of

The Honorable James H. Quello May 27, 1994
Page 2

the frequencies through the auction process or any operating costs. While the analysis was done for the Miami MTA and inclusive BTAs, we believe it is a fair generic representation of most major markets around the country. As you will note, the analysis includes the following variables: a 30 MHz system, a 20 MHz system and a 10 MHz system. In addition thereto, each frequency block is then divided into the Miami MTA and the major BTAs that are included with the MTA (but not all of the BTAs).

The significant conclusion that can be drawn from this analysis is that the cost of construction alone even for the smallest alternative, i.e., a 10 MHz block on the Miami BTA basis, is in excess of \$33,000,000. I think it is fair to state that this will exceed the financial capacity of any Designated Entity that is interested in pursuing participation of PCS in Miami. While it is true that the cost for the smaller BTAs are significantly less, such as a system in Fort Pierce which would only cost a little over \$3,000,000, but when viewed on a potential subscriber basis as a stand alone operation, this is simply an invitation for economic disaster. Thus, one must fairly conclude that the operating assumption by some Designated Entities that they want the FCC to establish the smallest possible set-aside to ensure their ability to independently own and operate a PCS system is simply not economically feasible. Furthermore, I believe that any PCS system without at least approximately 30 MHz of spectrum will be difficult to finance.

I would also like to advise you that in light of the recent concerns that have been expressed by the FCC staff on the constitutionality of set-asides, we are in the process of preparing an updated constitutional legal Memorandum discussing the constitutionality of set-asides. This Memorandum is being prepared by Arthur England who is the former Chief Justice of the Florida Supreme Court. A copy of the Memorandum will be forwarded to you within the next few days.

In this context, it is critical that the FCC focus on the evaluation of whether or not any bidding credit is economically the functional equivalent of a set-aside. We strongly believe that the answer is no. This belief is supported by the fact that it is overwhelmingly likely that the major telecommunications entities in this country, including MCI, Sprint, and the various Bell operating companies, will overbid the value of the frequencies due to their own strategic needs. Thus, just as we saw in the Paramount acquisition, the real market value and the ultimate acquisition cost will vary significantly. While it is

The Honorable James H. Quello May 27, 1994 Page 3

true that Paramount represented the last major studio available, it is also true that neither Mr. Diller nor Viacom required Paramount for economical survival. This is not the case when it comes to PCS. Most Bell operating companies and long distance carriers view PCS as critical to their economic survival. Thus, not only will they overbid the fair market value, as was the case in Paramount, but I think it is safe to say that when it comes to survival they will bet the ranch, if necessary. Accordingly, it is simply impossible to, at this stage, estimate what a necessary bidding credit will be in order to overcome the anticipated economic survival overbidding. Thus, bidding credits are simply not the functional equivalent of set-asides. As a result, bidding credits cannot fulfill the Congressional mandate to ensure that Designated Entities participate in PCS.

I will call your office on Tuesday morning to see if a meeting is possible.

Pursuant to FCC rules and regulations, I will file with the Office of the Secretary an appropriate Ex Parte Memorandum of this letter.

Sincerely yours,

Matthew L. Leibowitz Counsel for MasTec, Inc.

MLL/mdr

Enclosure

cc: Rudolfo M. Baca, Esq., Legal Advisor Jorge Mas Canosa, MasTec, Inc.

	M'	TA VS BTA CO	513			
		CDMA		1		
		30MHz				
	Mismi MTA	Miami BTA	Ft Myers	Ft Pierce	Naples	West Palm
Sit es	215	121	20	11	16	48
Base	21500000	12100000	2000000	1100000	1500000	4800000
Year 1	1758000C	9450000	1800000	975000	1500000	3825000
Year 2				1		
Year 3		75000				
Year 4	1					
Year 5	5825000	4650000	225000	525000	75000	1350000
Year 6	4875000	2700000	150000	150000	525000	1350000
Year 7	2775000	1725000	300000	75000	150000	525000
Year 8	4200000	2625000	300000	375000	7500C	825000
Year 9	4050000	2625000	225000	450000	75000	575000
Year 10	4200000	2475000	150000	225000	300000	1050000
,						
Eq Total	\$85,975,000	\$38,425,000	\$5,150,000	\$3,875,000	\$4,300,000	\$14,200,000
				,		
	0474500	£445000	000000	105000	70000	2070000
Site Const	9675000	5445000	900000	495000	720000	2070000
Towers	2840500	1703000	230750	123500	188500	585000
Transmission	4300000	2420000	400000	220000	320000	920000
Shelters	1510000	801250	201250	115000	162500	315000
Engineering	2580000	1452000	240000	132000	192000	552000
Site Total	521,005,500	\$11,821,250	\$1,972,000	\$1,085,500	\$1,583,000	\$4,442,000
Total Cost	\$90 000 500	\$50,246,250	\$7 122 000	\$4 080 500	\$6.883.000	\$18 842 000
Total Cost	360,860,300	330,240,230	31,122,000	3-,300,300	33,000,000	410,0-2,000
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	M	TA VS BTA COS	sts			
		CDMA				
		20MHz				
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	Mismi MTA	Miami STA	Ft Myers	Ft Pierce	Naples	West Paim
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Sites	215	121	20	11	16	46
5450	21500000	12100000	2000000	1100000	1600000	4800000
Year 1	17550000	9450000	1800000	975000	1500000	3825000
Year 2						
Year 3						
Year 4						
Year 5	1200000	1050000	75000			75000
Year 6	1725000	1200000		150000	75000	300000
Year 7	1950000	120000	150000	75000		525000
Year 8	2550000	1650000		375000	75000	450000
Year 9	2775000	1575000	75000	l	225000	900000
Year 10-	1875000	1050000	75000	75000	225000	450000
	i					:
Eq Total	\$51,125,000	\$28,195,000	\$4,175,000	\$2,750,000	\$3,700,000	\$11,125,000
Site Const	9675000	5445000	900000	495000	720000	2070000
				1		
Towers	2840500	1703000	230750	123500	188500	585000
Transmission	4300000	2420000	400000	220000	320000	920000
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Shelters	1610000	801250	201250	115000	162500	315000
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Engineering	2580000	1452000	240000	132000	192000	552000
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Site Total	\$21,005,500	\$11,821,250	\$1,972,000	31,085,500	\$1,583,000	\$4,442,000
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Total Cost	\$72,130,500	\$40,016,250	58,147,000	\$3,835,500	\$5,283,000	\$15,567,000
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	M'	TA VS BTA CO	St§			
	1	COMA				
		10MHz				• • • •
	Miami MTA	Miami BTA	Ft Myers	Ft Pierce	Nanina	Mart Cal
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Sites	215	121	20	11	16	46
5450	21500000	12100000	2000000	1100000	1600000	46000C0
Year 1	15125000	9450000	1800000	975000	1500000	3825000
Year 2						
Year 3						
Year 4						
Year 5						
Year 8						
Year 7						
Year 8		·				
Year 9					1	
Year 10						
Eq Total	\$37,625,000	\$21,550,000	\$3,800,000	\$2,075,000	\$3,100,000	\$8,425,00
Site Const	9675000	5445000	900000	495000	720000	2070000
Towers	2840500	1703000	230750	123500	188500	585000
Transmission	4300000	2420000	400000	220000	320000	920000
		2 124044	1		78444	45044
Shelters	1610000	801250	201250	115000	162500	315000
Engineering	2560000	1452000	240000	132000	192000	552000
Site Total	\$21,005,500	\$11,821,250	\$1,972,000	\$1,085,500	\$1,583,000	\$4,442,00
Total Cost	\$58,630,500	\$33,371,250	\$5,772,000	\$3,150,500	\$4,683,000	\$12,867,00
Operational cos	ts are not include	d in the above	s unwpers			
he above data	was obtained fro	m a report "P	CS Market De	emand and S	ystem Engine	ering*
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Page 3

	1	CDMA				
	Subs	scriber Assump	tions			`
						1
	Miami MTA	Mismi STA	Ft Myers	Ft Pierce	Napies	: West Pain
	30 MHz	20 MHz	20 MHz	20 MHz	20 MHz	20 MHz
		10 MHz	_ 10 MHz	10 MHz	10 MHz	10 MHz
Year 1	4307	1434	147	99	39	433
		598	61	41	18	181
Year 2	10231	3378	358	241	96	1043
		1407	149	101	40	435
						700
Year 3	34303	11225	1230	828	329	3541
		4677	512	344	137	1475
Vees 4	60000	20075				
Year 4	69612	22575 940 6	2555	1712	55\$ 257	7275
		3400	1085	714		3031
Year 5	126190	40550	4741	3170	1284	13350
		16896	1975	1321	53 5	5582
					- 1000	400.00
Year 5	183460	58405	7054	4705	1922	19643
		24335	2938	1961_	801	8185
Year 7	213659	67375	8408	5594	2303	23150
		28073	3503	2331	980	9648
Year 8	240346	75059	9678	8423	2665	26346
·	<u> </u>	31275	4032	2678	1111	10978
Year 9	284391	81757	10892	7211	3018	29319
1 201 2	201001	34086	4538	3005	1257	12216
		1		1		
Year 10	290235	58852	12232	8077	3405	32552
		37022	5097	3365	1419	13563
above data	was obtained fr	om a report "Pr	CS Market Do	emand and Sy	stem Englas	sering*

Page 4

MATTHEW L. LEIBOWITZ JOSEPH A. BELISLE ILA L. FELÖ KARSTEN AMLIE

of Coursel Aaron P. Shainis¹ Lee Pelteman² Sanford L. Somper

* NOT ADMITTED TO

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TELEPHONE (305) 530-1322 TELECOMER (305) 530-9417 SUITE SGO IZSS 2300 STREET, N.W. WASHINGTON, D.C. 20037

May 27, 1994

Via Facsimile (202) 632-5168

מבין בטטטוומטונאטטונאטטונים טדיט עבא דט אין דער

The Honorable Andrew C. Barrett Commissioner Federal Communications Commission 1919 M Street, NW Room 826 Washington, DC 20554

Re: Personal Communications Services

Dear Commissioner Barrett:

I am writing you on behalf of my client, Jorge Mas Canosa, a prospective applicant for the new Personal Communications Services (PCS). On Tuesday, May 31, 1994, we are meeting with Commissioner Ness and Commissioner Chong to discuss minorities' and women's participation in PCS. If at all possible, we would like to meet with you to express our concerns about recent reports that the FCC may not adopt critical mechanisms which are necessary to implement the statutory requirement of Section 309 (j)(4)(D) of the Communications Act.

We believe PCS will create an historic and unique opportunity to expand the ownership and control of our telecommunications industry to include minorities and women. However, in order for minorities and women to play a meaningful role in PCS, and to raise the requisite capital to compete in the PCS marketplace, the Federal Communications Commission must implement a multi-level flexible approach including a 30 MHz set-aside on the MTA basis, installment payments and tax certificates.

I am forwarding you by this letter a generic financial cost analysis of constructing a PCS for Miami. Please note that this cost analysis does not include the price of the acquisition of the frequencies through the auction process of any operating costs. While the analysis was done for the Miami MTA and inclusive BTAs, we believe it is a fair generic representation of most major markets around the country. As you will note, the analysis includes the following variables: a 30 MHz system, 20 MHz systems and 10 MHz systems. In addition thereto, each frequency

The Honorable Andrew C. Barrett May 27, 1994 Page Two

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I will call your office today to schedule a meeting at your convenience.

The Honorable Andrew C. Barrett May 27, 1994 Page Three

Pursuant to FCC rules and regulations, I will file with the Office of the Secretary an appropriate Ex Parte Memorandum of this letter.

Sincerely yours,

Manhew L. Leibowitz

Counsel for MasTec, Inc.

MLL/mdr

Enclosure

cc: Jorge Mas Canosa, Mas Tec, Inc.

	M	TA VS BTA CO	sts	!		
		CDMA				
		20MHz	1			
	Mismi MTA	Miami STA	Ft Myers	Ft Plarce	Naples	West Pair
Sites	215	121	20	11	16	46
Base	21500000	12100000	2000000	1100000	1800000	4800000
Year 1	17550000		1800000	975000	1500000	3825000
Year 2				!		
Year 3	,		1			
Year 4	!					1
Year 5	1200000	1050000	75000		,	75000
Year 6	1725000			150000	75000	300000
Year 7	1950000	120000	150000	75000		525000
Year B	2550000	1650000		375000	75000	450000
Year 9	2775000	1575000	75000	i	225000	900000
Year 10	1875000		75000	75000	225000	450000
		1				1
Eq Total	\$51,125,000	\$28,195,000	\$4,175,000	\$2,750,000	\$3,700,000	\$11,125,00
Site Const	9875000	5445000	900000	495000	720000	2070000
			30000			
Towers	2840500	1703000	230750	123500	188500	585000
Transmission	4300000	2420000	400000	220000	320000	920000
THEIRSTITISMENT	4300000	2720000	400000	220000	32000	320000
Shelters	1610000	801250	201250	115000	162500	315000
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Engineering	2580000	1452000	240000	132000	192000	552000
Site Total	\$21,005,500	\$11,821.250	\$1,972,000	\$1,085,500	\$1,583,000	\$4,442,00
		1			!	
Total Cost	\$72,130,500	\$40,016,250	\$6,147,000	\$3,835,500	\$5,283,000	\$15,567,00
Operational cos	ts are not include	ed in the above	e unwperz		· · · · · · · · · · · · · · · · · · ·	
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	M.	TA VS BTA CO	Sts			
		CDMA				
		10MHz			<u> </u>	· · · · · · · · · · · · · · · · · · ·
	Miami MTA	Miami BTA	Ft Myers	Ft Plerce	Naples	West Pain
Sites	215	121	20	11	18	46
Base	21500000	12100000	2000000	1100000	1600000	4800000
Year 1	18125000	9450000	1800000	975000	1500000	3825000
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Eq Total	\$37,625,000	\$21,550,000	\$3,800,000	\$2,075,000	\$3,100,000	\$8,425,00
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Site Const	9575000	5445000	900000	495000	720000	2070000
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			<u> </u>			
Total Cost	\$58,530,500	\$33,371,250	\$5,772,000	\$3,180,500	\$4,683,000	\$12,867,00
Operational cost	s are not include	ed in the above	e numbers		,	
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	Miami MTA	Miami STA	Ft Myers	Ft Pierce	Naples	West Pain
	30 MHz	20 MHz	20 MHz	20 MHz	20 MHz	20 MHz
		10 MHz	10 MHz	10 MHz	10 MHz	10 MHz
Year 1	4307	1434	147	99	39	433
	-	598	81	41	16	181
Year 2	10231	3378	358	241	95	1043
1441 2	10231	1407	149	101	40	435
		1707	179	10.		700
Year 3	34303	11225	1230	826	329	3541
		4677	512	344	137	1475
Year 4	69612	22575	2555	1712	588	7275
	777	9408	1085	714	287	3031
			1000	1		
Year 5	126190	40550	4741	3170	1284	13350
		16896	1975	1321	535	5582
Year 6	183460	58405	7054	4705	1922	19643
		24335	2939	1961	801	8185
Year 7	213859	87375	8408	5594	2303	23150
TOALI	213038	28073	3503	2331	960	9848
	 	20073	3303	2001	900	
Year 8	240345	75059	9678	6423	2665	25348
		31275	4032	2575	1111	10978
Year 9	264391	81757	10892	7211	3018	29319
14010	201001	34086	4538	3005	1257	12216
Year 10	290235	88852	12232	8077	3405	32552
		37022	5097	3385	1419	13563
	was obtained fr				stem Engine	ering"
	ary 1994 Moffet, Management Co					

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of Coursel Alron P. Smainis* Lee Feltiman* Sanford L. Böhrer

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May 25, 1994

Via Facsimile and Overnight Delivery

Ms. Karen Brinkmann, Special Assistant Office of the Chairman Federal Communications Commission 1919 M Street, NW Washington, DC 20554

Per our telephone conversation yesterday, I am forwarding you by this letter a generic financial cost analysis of constructing a Personal Communications System (PCS) for Miami. Please note that this cost analysis does not include the price of the acquisition of the frequencies through the auction process or any operating costs. While the analysis was done for the Miami MTA and inclusive BTAs, we believe it is a fair generic representation of most major markets around the country. As you will note, the analysis includes the following variables: a 30 MHz system, 20 MHz systems and 10 MHz systems. In addition thereto, each frequency block is then divided into the Miami MTA and the major BTAs that are included within the MTA (but not all of the BTAs).

The significant conclusion that can be drawn from this analysis is that the cost of construction alone even for the smallest alternative, i.e., a 10 MHz block on the Miami BTA basis is in excess of \$33,000,000. I think it is fair to state that this will exceed the financial capacity of any Designated Entity that is interested in pursuing participation of PCS in Miami. While it is true that the cost for the smaller BTAs are significantly less, such as a system in Fort Pierce which would only cost a little over \$3,000,000, when viewed on a potential subscriber basis as a stand alone operation, this is simply an invitation for economic disaster. Thus, one must fairly conclude that the operating assumption by some Designated Entities that they want the FCC to establish the smallest possible set-aside to ensure their ability to independently own and operate a PCS system is simply not economically feasible. Furthermore, I believe that any PCS system without at least approximately 30 MHz of spectrum will be difficult to finance.

Ms. Karen Brinkmann, Special Assistant May 25, 1994 Page Two

I would also like to advise you that in light of the recent concerns that have been expressed by the FCC staff on the constitutionality of set-asides, we are in the process of preparing an updated constitutional legal Memorandum discussing the constitutionality of set-asides. This Memorandum is being prepared by Arthur England who is the former Chief Justice of the Florida Supreme Court. A copy of the Memorandum will be forwarded to you within the next few days.

In this context, it is critical that the FCC focus on the evaluation of whether or not any bidding credit is economically the functional equivalent of a set-aside. We strongly believe that the answer is no. This belief is supported by the fact that it is overwhelmingly likely that the major telecommunications entities in this country, including MCI, Sprint, and the various Beli operating companies, will overbid the value of the frequencies due to their own strategic needs. Thus, just as we saw in the Paramount acquisition, the real market value and the ultimate acquisition cost will be very significant. While it is true that Paramount represented the last major studio available, it is also true that neither Mr. Diller nor Viacorn required Paramount for economical survival. This is not the case when it comes to PCS. Most Bell operating companies and long distance carriers view PCS as critical to the economic survival. Thus, not only will they overbid the fair market value, as was the case in Paramount, but I think it is safe to say that when it comes to survival they will bet the ranch if necessary. Accordingly, it is simply impossible to, at this stage, estimate what a necessary bidding credit will be in order to overcome the anticipated economic survival overbidding. Thus, bidding credits are simply not the functional equivalent of set-asides. As a result, bidding credits cannot fulfill the Congressional mandate to ensure that Designated Entities participate in PCS.

If you have any questions regarding the economic analysis or the aforementioned arguments, please feel free to call me.

Pursuant to FCC rules and regulations, I will file with the Office of the Secretary an appropriate Ex Parte Memorandum of this letter.

Sincerely yours,

Matthew L. Leibowitz

Counsel for MasTec, Inc.

MLL/mdr

Enclosure

cc: Jorge Mas Canosa, MasTec, Inc.

Sites		CDMA	· · · · · · · · · · · · · · · · · · ·			
			_			
		30MHz				
Sites :	Miami MTA	Miami BTA	Ft Myers	Ft Pierce	Naples	West Palm
	215	121	20	11	16	46
Base	21500000	12100000	2000000	1100000	1800000	4600000
Year 1	17550000	9450000	1800000	975000	1500000	3825000
Year 2						
Year 3		75000				
Year 4	j					
Year 5	5825000	4850000	225000	525000	75000	1350000
Year 6	4875000	2700000	150000	150000	525000	1350000
Year 7	2775000	1725000	300000	75000	150000	525000
Year 8	4200000	2625000	300000	375000	75000	825000
Year 9	4050000	2625000	225000	450000	75000	675000
Year 10	4200000	2475000	150000	225000	300000	1050000
Eq Total	\$65,975,000	\$38,425,000	\$5,150,000	\$3,875,000	\$4,300,000	\$14,200.00
Site Const	9675000	5445000	900000	495000	720000	2070000
Gite Const	8073000	3443000	30000	449000	720000	2070000
Towers	2840500	1703000	230750	123500	188500	585000
ransmission	4300000	2420000	400000	220000	320000	920000
Sheiters	1610000	801250	201250	115000	182500	315000
Engineering	2580000	1452000	240000	132000	192000	552000
Site Total	\$21,005,500	\$11,821,250	\$1,972,000	\$1,085,500	\$1,583.000	\$4,442,00
Total Cost	\$86,980,500	\$50,246,250	\$7,122,000	\$4,960,500	\$5,883,000	\$18,642,00

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		CDMA				
		20MHz				
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·	Miami MTA	Miami BTA	Ft Myers	Ft Pierce	Naples	West Pain
Sites	215	121	20	11	16	46
Base	21500000	12100000	2000000	1100000	1600000	4600000
Year 1	17550000	9450000	1800000	975000	1500000	3825000
Year 2			W			
Year 3						
Year 4	1					
Year 5	1200000	1050000	75000			75000
Year 6	1725000	1200000		150000	75000	300000
Year 7	1950000	120000	150000	75000		525000
Year 8	2550000	1650000		375000	75000	450000
Year 9 -	2775000	1575000	75000		225000	300000
Year 10	1875000		75000	75000	225000	450000
Eq Total	\$51,125,000	\$28,195,000	\$4,175,000	\$2,750,000	\$3,700,000	\$11,125,00
						-
Site Const	9675000	5445000	900000	495000	720000	2070000
One Odlist	5073000	3773000	\$0000	493000	72000	2010000
Towers	2840500	1703000	230750	123500	188500	585000
	20-1000		200700	12000		
ransmission	4300000	2420000	400000	220000	320000	920000
Shelters	1610000	801250	201250	115000	162500	315000
		1				
Engineering	2580000	1452000	240000	132000	192000	552000
Otto Total		614 004 050	04 030 000	04 005 500	\$1,583,000	\$4,442,00
Site Total	521,005,500	\$11,821,250	\$1,972,000	\$1,085,500	\$1,363,000	34,442,00
						1
Total Cost	\$72,130,500	\$40,016,250	\$8,147,000	\$3,835,500	\$5,283,000	\$15,587,00
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perational cos	ts are not include	ed in the above	numbers		i	
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	M	TA VS BTA CO	518			
		CDMA				
		10MHz				
	Miami MTA	Miami BTA	Ft Myers	Ft Pierce	Napies	West Palm
Sites	215	121	20	11	16	46
8856	21500000	12100000	2000000	1100000	1800000	4600000
Year 1	16125000	9450000	1800000	975000	1500000	3825000
Year 2	.0.5000	310000	1000000			402000
Year 3	`					
Year 4						
Year 5		<u> </u>			· · · · · · · · · · · · · · · · · · ·	
Year 6						
Year 7	:					
Year 8						
Year 9						
Year 10						
Eq Total	\$37,625,000	\$21,550,000	\$3,800,000	\$2,075,000	\$3,100,000	\$8,425,000
			· · · · · · · · · · · · · · · · · · ·			
Site Const	9675000	5445000	900000	495000	720000	2070000
Towers	2840500	1703000	230750	123500	188500	585000
Transmission	4300000	2420000	400000	220000	320000	920000
Shelters	1810000	801250	201250	115000	162500	315000
Engineering	2580000	1452000	240000	132600	192000	552000
Site Total	\$21,005,500	\$11,821,250	\$1,972,000	\$1,085,500	\$1,583,000	\$4,442,000
Total Cost	\$58 830 500	\$33,371,250	\$5 772 000	\$3.160.500	\$4 683 000	\$12.867.000
				100,000		
Operational cos	ts are not include	ed in the above	e numbers			
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	M	TA VS BTA Cos	31.5			
	5	CDMA	412 - 2	-		
	Subs	scriber Assump	tions			
	Miami MTA	Min-i D74	F1 14-14-1		Nanine	Marie Bale
	30 MHz	Miami BTA 20 MHz	Ft Myers 20 MHz	Ft Pierce	Naples 20 MHz	West Pain 20 MHz
	30 1911 16	10 MHz	10 MHz	20 MHz	10 MHz	10 MHz
Year 1	4307	1434	147	10 MHz 99	39	433
1 941		598	61	41	18	181
Year 2	10231	3378	358	241	95	1043
		1407	149	101	40	435
Year 3	34303	11225	1230	826	329	3541
		4677	512	344	137	1475
Year 4	69612	22575	2555	1712	588	7275
1001-7	03012	9408	1085	714	287	3031
Year 5	126190	40550	4741	3170	1284	13350
···	 	16896	1975	1321	5 35	5562
Year 6	183480	58405	7054	4705	1922	19643
		24335	2939	1961	801	8185
Year 7	213659	67375	8408	5594	2303	23150
		28073	3503	2331	960	9848
	240546		6676	2422	0445	00040
V 0	240346	75059	9678	6423	2 665	25348 10978
Year \$						
Year \$		31275	4032	2676	1 1 1	10310
Year \$	264391	31275 81757	10892	7211	3016	29319
	264391	i				
	264391	81757	10892	7211	3018	29319

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May 23, 1994

Via Hand Delivery

Commissioner Rachelle Chong Federal Communications Commission 1919 M Street, NW Washington, DC 20554

Re: PCS Minority Participation

Dear Commissioner Chong:

Congratulations on your first day in office.

I represent Jorge Mas and his company, MasTec, Inc., in the matter of Personal Communications Services (PCS). As you may be aware, and as reported by the Wall Street Journal today, there is great concern regarding how the FCC will implement the Congressional mandate included in subsection 4 (D) of Section 309 (j) to ensure that women and minority owned firms, small business, and rural telephone companies are given an equal opportunity to participate in the PCS bidding process. Specifically, although the FCC initially considered frequency set-asides for the designated entities, it now appears that the FCC staff is concerned regarding the constitutionality of such an approach.

It is our belief that frequency set-asides, installment payments, tax certificates, as well as bidding credits, are legally appropriate and economically necessary in order to ensure participation by the designated entities in this new technology. Anything short of <u>all</u> of these devices, <u>particularly set-asides</u>, would fail to properly and fully implement the provisions of Section 309 (j)(4)(D) of the Communications Act.

I would respectfully request a meeting, as soon as possible, to bring several minority representatives to your Office to discuss these matters. It is our understanding that the Chairman intends to bring this matter up at the June 9th meeting, thus time is of the essence, especially given the sunshining of the matter once the Agenda is published, which I understand will be on